

BOARD OF COUNTY COMMISSIONERS

AUGUST 8, 2006

A regular meeting of the Board of County Commissioner was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Vice Chairman D'Aprile, Commissioner Cummings, and Commissioner DeBoer. Also in attendance were County Administrator Loucks, County Attorney Knowlton, Chief Deputy Board Services White, Executive Assistant Hunter, and Deputy Clerk Mitchell. The following members were absent: Chairman Moore, and District V Commissioner.

The meeting was called to order at **9:00 AM**. **Vice Chairman D'Aprile** announced there would be only three Board members today.

Invocation given by Mark Tyree, Suncoast Christian Church, Port Charlotte, followed by the Pledge of Allegiance.

Changes to the Agenda

Deletion #1: Agenda Item Q-2, Approve Agreement for the delivery and use of reclaimed water between Englewood Water District and Charlotte County

Change #1: Change language in B) to read "Recommend the Board approve CIP Amendment #06-C31 in the amount of \$211,330."

COMMISSIONER DEBOER MOVED TO APPROVE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 3:0.

ABSENT:Chairman Moore, and District V Commissioner.

Special Recognition

Proclamations:

COMMISSIONER CUMMINGS MOVED TO APPROVE COMMUNITY HEALTH CENTER WEEK PROCLAMATION, SECONDED BY COMMISSIONER DEBOER.

Motion Carried 3:0.

ABSENT:Chairman Moore, and District V Commissioner.

Bob Johns accepted the proclamation.

COMMISSIONER CUMMINGS MOVED TO APPROVE FLORIDA WATER, WASTEWATER AND SYSTEMS OPERATORS WEEK PROCLAMATION, SECONDED BY COMMISSIONER DEBOER.

Motion Carried 3:0.

ABSENT:Chairman Moore, and District V Commissioner.

David Schlobohm accepted the proclamation.

Employee Recognition:

5 Years: Terry Barnet, Parks, Recreation, and Cultural Resources; Seth Gilgor, Utilities; Frank Roblin, Public Works; Wallace Skiles, Environmental & Extension Services; and Sophia Wondergem, Human Services; 10 Years: John Hagerty, Fire/EMS; and Ginny Hall, Environmental & Extension Services; 15 Years: Richard Labousier, Public Works; and Kim Snyder, Public Works; and 25 Years: Tim Free, Public Works.

Presentation:

Joyce Ross - Recognition of awards received by Charlotte County from FCCMA and The IG Innovation Groups for Electronics Logistics Management & Operations program used in time of crisis.

I. CITIZEN INPUT - AGENDA ITEMS ONLY

Ester Horton referred to the Gatewood Property; said she's a broker trying to sell a piece of property consisting of 12.5 acres residing with the Airport Authority Overlay District; the property is bordered on the east by Grove Boulevard, on the south by Ameropa Drive, and on the north and west by the Airport Commerce Center; ingress/egress is provided by Ameropa Drive exiting through the Charlotte Ranchettes; Grove Boulevard is platted through to Jones Loop Road on the south but it doesn't exist; the buyer wants to construct a truss plant of 35,000 s.f. employing about 75 people with the goal of expanding the facility up to 50,000 s.f. adding an additional 25

employees; currently there's no ingress or egress ideal for commercial traffic; and the question is whether the buyer will be able to get a building permit to begin construction on the truss plant on an unpaved road and what will the County make the buyer do in terms of paving or procuring a different right-of-way to the property.

II. COMMITTEE VACANCIES

Charlotte County is seeking volunteers to serve on the following Committees:

Edgewater North Waterway Unit - Six volunteers needed; five regular members whose terms will be pulled by lot number to serve one to three years and one alternate member to serve a two-year term.

Englewood Area Planning Advisory Board - is seeking two volunteers who are landowners, and reside in Charlotte County to serve four-year terms.

Englewood East Street and Drainage Advisory Committee - is seeking one volunteer who is a landowner, and who resides within the boundaries of the Unit to serve a three-year term.

Charlotte County Historical Advisory Committee - One member to serve as the At-Large representative representing architecture, history, urban planning, and archaeology or related disciplines such as, American Studies or American Civilization; on the 2nd Wednesday of each month at 9:00 a.m. at the Charlotte County Historical Center.

III. REPORTS RECEIVED AND FILED - No items

IV. CONSENT AGENDA

COMMISSIONER DEBOER MOVED TO APPROVE CONSENT AGENDA EXCEPT AGENDA ITEM L-2, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 3:0.

ABSENT:Chairman Moore, and District V Commissioner.

Clerk of the Circuit Court

A. Finance Division

(1) RECOMMENDED ACTION: Adoption of Clerk's Finance Memoranda
BUDGETED ACTION: None

Memorandum #1 - Status of Contingency Reserves - FY 04/05
Memorandum #1A - Status of Contingency Reserves - FY 05/06
Memorandum #2 - Total Disbursements for the period July 18, 2006 through July 31, 2006 in the amount of \$13,822,862.14

B. Minutes Division

(1) RECOMMENDED ACTION: 9:00 a.m., June 20, 2006, Land Use Public Hearing 2:00 p.m., June 22, 2006, Executive Session
BUDGETED ACTION: None

Board of County Commissioners

C. Commission Office - No items

D. Administration - No items

E. County Attorney

(1) RECOMMENDED ACTION: Set an Executive Session for August 22, 2006 at 2:00 p.m., or as soon thereafter, in the County Attorney's Office Conference Room to discuss Ona Mine. BUDGETED ACTION: None

F. Budget Office - No items

G. Community Development

(1) *RECOMMENDED ACTION: Set a public hearing, to consider revisions to the Charlotte Harbor Community Development Code, on August 15, 2006 at 2:00 pm or as soon thereafter as may be heard, for additions to Section 3-9-50 of the Code of Laws and Ordinances, Charlotte County Florida. BUDGETED ACTION: None*

(2) *RECOMMENDED ACTION: Approve a Certification of a Sending Zone and accompanying Restrictive Covenant, CSZ-06-07-16, for Julian Wright. BUDGETED ACTION: None*

Resolution 2006-144

(3) *RECOMMENDED ACTION: Approve the DRC-PD-80-4000 Partial Final Detail Plan Resolution permitting Sky King Unlimited, Inc. to develop Sky King Fireworks. BUDGETED ACTION: None*

Resolution 2006-145

(4) *RECOMMENDED ACTION: Approve the DRC-PD-80-4VV(MM) Major Modification Resolution permitting VEDA, L.L.C. to construct the La Quinta Inn & Suites. BUDGETED ACTION: None*

Resolution 2006-146

(5) *RECOMMENDED ACTION: Approve agreement between Charlotte County and W. Kevin Russell for services as Excavation Hearing Examiner for Community Development/Land Development Services. BUDGETED ACTION: None*

Agreement 2006-036

(6) *RECOMMENDED ACTION: Approve Final Plat FP 05-03-04, King's Highway Wal-Mart. Approve Developer's Agreement and Accept Letter of Credit # L5LS-660765 drawn on JP Morgan Chase Bank in the amount of \$1,751,947.18 as surety. BUDGETED ACTION: None*

Agreement 2006-037

(7) **RECOMMENDED ACTION:** Set a public hearing, to consider revision(s) to the Commercial Design Standards, on August 15, 2006 at 9:00 am or as soon thereafter as may be heard, for additions to Section 3-5-506 of the Code of Laws and Ordinances, Charlotte County Florida. **BUDGETED ACTION:** None

(8) **RECOMMENDED ACTION:** Approve support for the designation of SR 776 as a Florida Scenic Highway. **BUDGETED ACTION:** None

H. Economic Development

(1) **RECOMMENDED ACTION:** Approve the Resolution recommending Publix Super Markets, Inc. be approved as a qualified applicant for the Brownfield Redevelopment Bonus Refund Program pursuant to 288.107 Florida Statutes, and request a waiver from the financial support requirement. **BUDGETED ACTION:** None

Resolution 2006-147

J. Environmental Services - No items

K. Facilities Construction and Maintenance - No items

L. General Services

(1) **RECOMMENDED ACTION:** A) Recommend the Board approve Change Order #3 to Bid #04-264, Airport Road and Taylor Road Intersection Improvements awarded to General Contracting Services, Inc. of Port Charlotte, Florida for the increase in maintenance of traffic costs for the not to exceed amount of \$211,329.99 with a revised total of \$3,061,543.89. B) Recommend the Board approve CIP Amendment #06-C31 in the amount of \$211,330. **BUDGETED ACTION:** Approval of CIP Amendment #06-C31. After approval of CIP Amendment 06-C31, the FY06 budget will have \$211,330 available in the Improvements Other Than Buildings account. CIP project, Airport/Taylor Intersection, revised project total \$4,104,558.

(2) **RECOMMENDED ACTION:** Recommend Board approve Change Order #1, in the amount of \$251,831.90, to Bid #05-433, Burnt Store Deep Injection Well Pump Station, awarded to Wharton-Smith, Inc. of Sanford, FL, to install a reclaimed water main and discharge line as required by FDEP. The revised project total is

\$795,626.90. BUDGETED ACTION: Budgeted amount for change order \$252,000, total project amount \$796,000. CIP project- Burnt Store Wastewater Treatment Plant.

Commissioner DeBoer stated once again the bidding process and competition are being eliminated by requesting a specific brand; he reviewed the water and sewer rate study and found the increases CCU wants to pass on to the rate payer were based on expenditures meaning CCU's rates are higher than the 15 utilities polled for the study; noted again time is of the essence in order to the comply with the Consent Order which has existing since they purchased the plant two years ago; he disagreed with any procedure that foregoes any opportunity to provide economic benefit to the community or our rate payers; they shouldn't continue to force rate payers to pay the highest rates in the state; and he'd like them to start doing something to provide some efficiencies and cost effectiveness for the rate payers.

Commissioner Cummings recalled being told by Mr. Eggleton from DEP how frustrated he was over the County not addressing the Consent Order in a timely fashion and because of that DEP would begin holding up construction permits for the development projects in the Burnt Store sector, and he had urged staff to get a move on because of pressure from Dep.

Mr. Schlobohm said the Commissioner was correct, explained staff had an opportunity to move forward more quickly because the contractor was already on site doing work on an injection well so the price the contractor gave the County was quite good since they were already mobilized, staff was trying to ensure they don't have any issues in the Burnt Store area so development can continue there and this was a way to have a show of good faith with DEP.

Vice Chairman D'Aprile said it has always been his intention to try to lower rates, the County is still in debt over the Utility purchase and it's the people who have suffered due to the mishandling of that purchase, and asked if this is the least expensive approach or are there other cost cutting measures available.

Mr. Schlobohm responded they've done everything possible to reduce rates and he felt they're budget was as lean as possible at this point

Mr. Schlobohm added they have compiled an exhaustive list of improvements and efficiencies within the Utility, and they will discuss them with the Board in the very near future.

Vice Chairman D'Aprile said staff needs to understand the people of this County are suffering a great deal with higher taxes and higher living costs, and he felt adding more pressure on to the public would certainly not be productive.

Commissioner DeBoer said he didn't doubt they needed to do this but whether DEP recently became tired of waiting for us to comply with the Consent Order that's been there since we purchased this isn't reflective of Utility management's lack of attention to these issues, it's waiting until the 11th hour when we're threatened, that's what keeps putting us in this situation.

Commissioner DeBoer said he's just set the stage for what they're going to hear when they get into the rate increases and he's going to counter everything that's just been said here. **Commissioner DeBoer** stated when you are charging more per customer than the other utilities and then talk about efficiencies after saying you're going to raise rates a second time in one year, that doesn't make any sense to him.

COMMISSIONER DEBOER MOVED TO APPROVE AGENDA ITEM L-2, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 3:0.

ABSENT:Chairman Moore, and District V Commissioner.

(3) **RECOMMENDED ACTION:** Approve Change Order #1 to Contract #06-095, St. Paul Linear Park landscaping, with Blue Heron Irrigation of Nokomis, FL to increase the contract in the amount of \$15,147.30 for a revised total contract of \$97,169.06 and extend the completion time by 40 days, for a revised completion time of 65 days. **BUDGETED ACTION:** FY06 funding is available (\$20,000.00) from the Native Tree Fund, Improvements Other Than Buildings, (\$77,169.06)

M. Human Resources - No items

N. Human Services

(1) RECOMMENDED ACTION: Authorization to submit document to Florida's Agency for Health Care Administration (AHCA) expressing the County's interest in the Medicaid Match Program for Substance Abuse Treatment Services. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Approve new member to the Indigent Health Care Advisory Board (IHCAB). BUDGETED ACTION: None

P. Information Technology - No items

Q. Parks, Recreation & Cultural Resources

(1) RECOMMENDED ACTION: Request that the Board of County Commissioners approve an Agreement with the Arts & Humanities Council of Charlotte County to operate the coffee concession at the Mid-County Regional Library. BUDGETED ACTION: None.

Agreement 2006-038

(3) RECOMMENDED ACTION: Request the Board of County Commissioners approve an agreement with the Florida Department of Environmental Protection for a \$200,000 grant under the Florida Recreation Development Assistance Program for Hathaway Park, and authorize the chairman to execute the necessary grant documents. BUDGETED ACTION: None

Grant 2006-024

(4) RECOMMENDED ACTION: Request the Board of County Commissioners approve an agreement with the Florida Department of Environmental Protection for a \$200,000 grant under the Florida Recreation Development Assistance Program for North Charlotte Regional Park, and authorize the chairman to execute the necessary grant documents. BUDGETED ACTION: None

Grant 2006-025

R. Public Safety

(1) *RECOMMENDED ACTION:* Request Board approval of the Federally Funded Sub-Grant Agreement (number to be assigned after grant is signed) between the State of Florida, Department of Community Affairs and Charlotte County. Funding is provided in the amount of \$15,269.00. *BUDGETED ACTION:* FY 06/07 Budget will be amended upon final approval from the State.

Grant 2006-026

(2) *RECOMMENDED ACTION:* Approve Budget Amendment # 06-A036 for \$34,370 to allocate State EMS County Grant funds in the current EMS department budget. *BUDGETED ACTION:* Approval of Budget Amendment # 06-A036.

(3) *RECOMMENDED ACTION:* (A) Approve Budget Amendment # 06-A037 for \$98,041 to allocate State EMS Matching grant; (B) Approve Budget Transfer # 06-037 for \$32,681 to allocate County match funds in the EMS budget to purchase powered stretchers for all department ambulances. *BUDGETED ACTION:* Approval of Budget Amendment # 06-A037 and Budget Transfer # 06-037.

(4) *RECOMMENDED ACTION:* Review and approve change in project scope to the Jail Expansion project. Request extension of the .6 millage for priority projects for one additional year. *BUDGETED ACTION:* The additional \$18,000,000 is needed in FY07; at the time the GMP/construction contract is awarded.

S. Public Works - No items

T. Real Estate Services

(1) *RECOMMENDED ACTION:* Approve the attached Resolution approving the release of a portion of a twenty-foot (20') wide canal maintenance easement located in Port Charlotte Subdivision, Section Forty-Three, and further authorizing the Director of Real Estate Services to execute the County Deed releasing said portion of said easement. (Owners: Steve and Donna Abby) *BUDGETED ACTION:* None

Resolution 2006-148

(2) **RECOMMENDED ACTION:** Approve a Resolution of Necessity to enable completion of the Winchester Mitigation project which entails the acquisition of real property for the preservation of Florida Scrub-Jay habitat necessitated by the widening and/or extension of Winchester South Boulevard. **BUDGETED ACTION:** None

Initially approved under Consent Agenda motion. However, under Commissioner Comments, **Commissioner DeBoer** moved for reconsideration. See that section for clarification and motions.

V. Tourism Development - No items

W. Utilities

(1) **RECOMMENDED ACTION:** Request Board to approve Interlocal Agreement for the Sale and Purchase of Water with The Englewood Water District. **BUDGETED ACTION:** None

Agreement 2006-039

X. Building Construction Services

(1) **RECOMMENDED ACTION:** 1) Approve the purchase of a generator for the Building Construction Services Department. 2) Approve budget transfer #06-040 in the amount of \$430,000. **BUDGETED ACTION:** 1) Approve budget transfer #06-040 in the amount \$430,000.

Y. Constitutional - No items

V. REGULAR AGENDA

Z. Regular Business - No items

VII. PRESENTATION AGENDA - No items

VIII. PUBLIC WORKSHOP AGENDA - No items

IX. BOARD WORKSHOP AGENDA - No items

X. CITIZEN INPUT - ANY SUBJECT

David Goodrich commented on budget cutting efforts he's made at home, said he's brought in his state-of-the-art satellite system, and asked that it be given the Wayne Sallade in an effort to help cut costs.

Arthur Grimes commented on Sara Devos's resignation and said he's extremely sad to see her go.

Vice Chairman D'Aprile said he felt they were all sad over this situation.

AA. County Administrator:

County Administrator Loucks updated the Board on the deal with the Tampa Bay Devil Rays which will be brought to the Board August 22, 2006.

Mr. Loucks stated the Board will receive full packet before the August 22, 2006 meeting.

Mr. Loucks updated the Board on Panther habitat requirements as detailed in the packet material.

RECESS: 10:00 AM - 10:10 AM

Michael Konefal updated the Board on the ingress and egress issues mentioned earlier regarding the Gatewood property.

Mr. Loucks said his last item was the classification of roads in Deep Creek roads as collector roads.

Thomas O'Kane explained collector roads fold into Road & Bridge, in Deep Creek Rampart and Rio de Janeiro Boulevards are roads under consideration, and traffic counts were being done but this won't suddenly create a fund of available dollars.

Commissioner DeBoer opined the bigger policy issue was the classification of roads countywide and possibly addressing this through ad valorem but eliminating MSBUs Countywide would be a disaster.

Mr. O'Kane opined there should be some middle of the road approach but it's a bigger discussion for a later date.

VI. PUBLIC HEARING AGENDA - 10:00 A.M.

(1) **RECOMMENDED ACTION:** Hold a public hearing at 10:00 a.m., or as soon thereafter as it may be heard, to approve and adopt an Ordinance to dissolve the Pirate Harbor Water Unit and add the service area to the Utilities Resolution as of October 1, 2006 (FY06/07). **BUDGETED ACTION:** None required.

Debbie Smith explained the proposed ordinance would transition the Pirate Harbor Water Unit customers to individual CCU customers effective October 1, 2006; all assets would be moved to the CCU Operations and Management fund in FY07; the Pirate Harbor Water Unit can be dissolved; the proposed rates for FY07 to be effective October 1, 2006 are scheduled to go before the Board on August 22, 2006; and CCU is currently proposing an MSBU in FY07 to add wastewater service to this area at the request of Pirate Harbor residents.

COMMISSIONER DEBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 3:0.

ABSENT:Chairman Moore, and District V Commissioner.

COMMISSIONER DEBOER MOVED TO APPROVE ORDINANCE 2006-068, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 3:0.

ABSENT:Chairman Moore, and District V Commissioner.

BB. County Attorney:

County Attorney Janette Knowlton advised the Board that Dr. Imami has been sued in a class action lawsuit with the majority if not all of the medical examiners through the state, explained it involves an administrative fee charged of about \$20 for cremations as authorized by the Board in Dr. Imami's 2004

contract, the lawsuit is for unjust enrichment in declaratory action trying to determine the authority for that fee, Dr. Imami is an independent contractor so we don't normally represent him but this is a charge authorized by the Board, we do pay his entire budget, and it would be her recommendation that the County Attorney's Office proceed to handle the matter on behalf of Dr. Imami and the Board. (**Board consensus.**)

Attorney Knowlton updated the Board on an Animal Control case regarding 11 neglected horses involving an individual who has a 10 acre farm in Punta Gorda.

CC. Commissioner Comments:

Commissioner DeBoer stated he had intended to pull Consent Agenda Item T-2, he has a real problem using eminent domain to take a person's property on the basis that the property is unbuildable because it contains endangered animals such as Scrub Jays, and he just can't agree with that.

COMMISSIONER DEBOER MOVED TO RECONSIDER AGENDA ITEM T-2, SECONDED BY COMMISSIONER CUMMINGS.

Commissioner Cummings said he felt the Commissioner made a valid point but they may need to do this in order to do the Winchester project, he knows this is a Scrub Jay issue but the federal government is requiring us to do this if we want to build the road, and asked if this was an urgent item because he doesn't want to hold up road project.

Mr. Loucks responded mitigation is a requirement of the construction of that road but he didn't think waiting two weeks posed a problem.

Motion Carried 3:0.

ABSENT:Chairman Moore, and District V Commissioner.

COMMISSIONER DEBOER MOVED TO BRING BACK AGENDA ITEM T-2 ON AUGUST 22, 2006 WITH MORE INFORMATION, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 3:0.

ABSENT:Chairman Moore, and District V Commissioner.

Commissioner Cummings opined they need to bring back the overall habitat conservation plan for the Scrub Jays because having single-family homeowners having to go through the federal process just isn't working.

Commissioner Cummings opined if they were to look at providing a base level of service through an MSTU system it might provide more flexibility and they might be able to have two rates, one for developed property and one for undeveloped property. Mr. Loucks said a workshop will be scheduled in October.

MEETING ADJOURNED: 11:10 AM

Signature on file in Commission Minutes
Thomas G. Moore
Chairman

ATTEST:

**BARBARA T. SCOTT, CLERK
OF THE CIRCUIT COURT AND
EX-OFFICIO TO THE BOARD
OF COUNTY COMMISSIONERS**

**By: Signature on file in Commission Minutes
Deputy Clerk**

/ksm